

Application Serial No. 10/800,306
Filed: 03/12/2004
Submission Under 37 C.F.R. 1.114
Attorney Docket No. 03-12896

Amendments to the Drawings:

Applicant resubmits the drawing amendments of Applicant's communication of May 13, 2005, and respectfully requests that the Examiner approve the same. Specifically, Fig. 1 has been amended pursuant to 37 C.F.R. 1.121(d). A replacement sheet 1/5 containing amended Fig. 1 is submitted herewith under Exhibit 1 pursuant to MPEP 608.02(t). Specifically, new reference numeral 52 has been added to properly identify the locking bar that was inadvertently mislabeled under reference numeral 32. Also, new reference numerals 53 and 54 have been added to clearly identify opposite ends of locking bar 52. Existing reference numeral 32 has been moved to the right of new reference numeral 53 to properly identify the top channel that is formed between locking bar 52 and the raised surface on housing receiving portion 24 that flanks bottom channel 34. Amended Fig. 1 is believed to be in compliance with 37 C.F.R. 1.84.

Application Serial No. 10/800,306
Filed: 03/12/2004
Submission Under 37 C.F.R. 1.114
Attorney Docket No. 03-12896

REMARKS/ARGUMENTS

Applicant has studied the final Office Action of February 8, 2006 and the Advisory Action of March 22, 2006 and made amendments to the claims, as indicated hereinabove, to place the application in condition for allowance. No new matter has been added.

Claims 1, 25 - 27 and 29 - 38 have been amended to define Applicant's invention over the cited prior art. Claims 2 - 24, 28 and 39 have been cancelled without prejudice. New claims 40 - 48 have been added, as indicated hereinabove. Therefore, claims 1, 25 - 27, 29 - 38 and 40 - 48 are presently pending.

Claim Rejections Under 35 U.S.C. §102

Claims 1 and 25 - 39 stand rejected under 35 U.S.C. §102(b) as being anticipated by Herbert et al (U.S. Patent 5,868,771). Claims 28 and 39 have been cancelled rendering the Examiner's rejection thereto moot.

The Herbert et al reference is concerned with a scalpel blade sheath which retains a custom blade therein. The sheath is apertured laterally to accommodate the rear bent end of the blade which protrudes there from. The sheath may not be used with standard (straight rear end) blades. The Examiner asserts that the Herbert et al reference anticipates the claimed invention.

Applicant respectfully submits that the invention, as presently claimed, is patentably different from the scalpel blade sheath of Herbert et al. Specifically, there is

Application Serial No. 10/800,306
Filed: 03/12/2004
Submission Under 37 C.F.R. 1.114
Attorney Docket No. 03-12896

no teaching in Herbert et al in regard to a scalpel blade with front and rear ends being disposed substantially in the same plane, as recited in amended claim 1. Herbert et al discloses instead a custom blade having diagonal end 302 that "is bent at approximately 20° angle relative to the body of the blade," Col. 4, lines 15 - 16, see Fig. 1.

Applicant respectfully submits that for a reference, such as the Herbert et al reference, to function under 35 U.S.C. §102(b), the reference must within the four corners of that document disclose each and every element that is set forth in the claim against which it is applied. Furthermore, every element of the claimed invention, as recited in the claims, must be disclosed either specifically or inherently by a single prior art reference. *See, Minnesota Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 1565 (Fed.Cir.1992); *Scripps*, 927 F.2d at 1576-77; *Lindemann Maschinenfabrik GMBH, v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458 (Fed.Cir.1984).

Amended claims 25 - 27 and 29 - 38 are dependent on claim 1. Therefore, in view of the foregoing amendments and remarks, Applicant respectfully requests withdrawal of the 102(b) claim rejections in regard to claims 1, 25 - 27 and 29 - 38, as presently amended. The remaining new claims are all patentably distinguished from the cited art.

Conclusion

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. Applicant believes that the invention, as presently

Application Serial No. 10/800,306
Filed: 03/12/2004
Submission Under 37 C.F.R. 1.114
Attorney Docket No. 03-12896

claimed, is in condition for allowance. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is respectfully requested to call the undersigned attorney at the telephone number listed herein below to discuss any steps necessary to place the application in condition for allowance. In the event that any fees become due or payable, the Examiner is authorized to charge USPTO Deposit Account # 03-2030, as needed. A duplicate of this authorization is enclosed herewith.

Respectfully submitted,

CISLO & THOMAS LLP

Date: April 12th, 2006

Daniel M. Cislo, Esq.
Reg. No. 32,973

DMC/MM:cjh

Enclosures:

Acknowledgement Postcard
Exhibit 1 (Replacement Sheet 1/5)

CISLO & THOMAS LLP
233 Wilshire Boulevard, Suite 900
Santa Monica, California 90401
Tel: (310) 451-0647
Fax: (310) 394-4477
www.cislo.com

Z:\7MDocs\03-12896\RCE Submission.DOC

Exhibit 1